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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/170769

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 09, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on January 19, 2016, at Elkhorn, Wisconsin.

The issue for determination is whether the Department of Health Services, Division of Health Care Access and Accountability (DHS) correctly denied the Petitioner's request for full dentures.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: OIG by Letter

Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Walworth County.
2. On October 2, 2015, the Petitioner's dentist submitted a request for prior authorization of complete dentures, at a cost of \$1,582.00. (Exhibit 3)

3. On October 28, 2015, DHS sent the Petitioner and her dentist notices advising them that the request for services was denied. (Exhibit 3)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 9, 2015. (Exhibit 1)

### DISCUSSION

Certain dental services are covered by Medicaid *Wis. Admin. Code DHS §107.07*.

Prior authorization is required before a dentist can provide full dentures to a patient. *Wis. Admin. Code DHS §107.07(2)3.a*.

The Department of Health Services requires prior authorization of certain services to:

1. Safeguard against unnecessary or inappropriate care and services;
2. Safeguard against excess payments;
3. Assess the quality and timeliness of services;
4. Determine if less expensive alternative care, services or supplies are usable;
5. Promote the most effective and appropriate use of available services and facilities; and
6. Curtail misutilization practices of providers and recipients.

*Wis. Admin. Code § DHS107.02(3)(b)*

“In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service;
2. The appropriateness of the service;
3. The cost of the service;
4. The frequency of furnishing the service;
5. The quality and timeliness of the service;
6. The extent to which less expensive alternative services are available;
7. The effective and appropriate use of available services;
8. The misutilization practices of providers and recipients;
9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including Medicare, or private insurance guidelines;
10. The need to ensure that there is closer professional scrutiny for care which is of unacceptable quality;
11. The flagrant or continuing disregard of established state and federal policies, standards, fees or procedures; and
12. The professional acceptability of unproven or experimental care, as determined by consultants to the department.”

*Wis. Admin. Code §DHS107.02(3)(e)*

“Medically necessary” means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;

2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
3. Is appropriate with regard to generally accepted standards of medical practice;
4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
5. Is of proven medical value or usefulness and, consistent with s. DHS 107.035, is not experimental in nature;
6. Is not duplicative with respect to other services being provided to the recipient;
7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Adm. Code. §DHS 101.03(96m)

Petitioner has the burden to prove, by a preponderance of the credible evidence, that the requested services meet the approval criteria.

In the case at hand, Petitioner's dentist wanted to remove all of Petitioner's teeth and replace them with full dentures, stating she has multiple cavities and multiple hopeless teeth. (Exhibit 3) It appears from the x-rays in Exhibit 3, that the Petitioner has a nearly full set of teeth. (Id.)

DHS has determined that the request for full dentures does not meet the definition of medical necessity, as defined by Wis. Adm. Code. §DHS 101.03(96m), above, because it is not consistent with the Petitioner's dental situation and would not be an appropriate level of service, because she has adequate bone support in her maxilla (upper) and because her periodontal health (referring to her gums) had not deteriorated to the point that she would need an upper denture. DHS opined that there were other treatments for the Petitioner, but did not state what those alternatives were. However, the burden of proof lies with the Petitioner.

Neither Petitioner, nor her dentist, have supplied any medical documentation showing that all of her teeth, in particular in the upper arch, need to be extracted. On the contrary, the Petitioner testified that she spoke to her dentist and that he indicated that there were, in fact, some alternative treatments they could try.

Based upon the foregoing, it is found that DHS correctly denied the request for full dentures.

It should be noted that the Petitioner testified that she has other medical conditions, including osteoporosis and motility disease that make it unlikely her upper teeth will survive long term and that it was her opinion and the opinion of her dentist that it would be more cost-effective to get a full denture now. If Petitioner's other health conditions affect her oral health and necessitate dentures, her dentist will have to submit a new request for prior authorization that includes documentation of her other diagnoses and their effect on her oral health. Petitioner's dentist might also wish to request a peer-to-peer review of her case.

### **CONCLUSIONS OF LAW**

DHS correctly denied the Petitioner's October 2015 request for full dentures.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 21st day of January, 2016

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 21, 2016.

Division of Health Care Access and Accountability